plainant filed objections to the confirmation of the master's report of this sale. *Held,* that the report be confirmed. *Stivers et al.* v. *Stivers et al.* (1908), — Ill. —, 86 N. E. 209.

HAND, J., in a dissenting opinion in which VICKERS and CARTER, JJ., concurred said, "In the case of a sale of a minor's real estate, a sale may be set aside and a resale ordered * * * without security that the premises at a subsequent sale will bring more than at the sale sought to be set aside." This opinion is supported by the dicta in *Frazer* v. *Zylicz,* 29 La. Ann. 534; 30 Cyc. p. 213 is as follows: "The fact that the defendant was an infant when partition was made, while it does not ipso facto entitle him to a new partition inclines any court * * * to give him relief from any advantage taken of him in making such partition." SCOTT, J., in the majority opinion says: "Confirmation of the sale of a minor's realty will not be refused, however, upon the motion of those representing the minor, on the ground alone that the price was inadequate unless it is clearly made to appear to the chancellor that a resale will realize for the minor a sum substantially larger than that resulting from the sale attacked." The court treats the consideration as not grossly inadequate, there having been a fall in the value of real estate after the $11,070 valuation and before the sale for $7,800. The decision is in accord with *Duncan et al.* v. *Dodd et al.,* 2 Paige (N. Y.) 99, and with the dicta in *In Re Allen's Estate,* 11 Phila. 48. POM. EQ. JUR., Vol. 6, p. 1204, is as follows: "If they (infant co-owners) are brought before the court by appropriate proceedings and duly represented, * * * the decree of partition is binding on them." This decision is not unjust to the infant. He could have had the sale set aside by showing that a resale would have resulted in a substantial increase in price; not having done this, the probabilities are that he was not sufficiently injured to justify the disturbance of a judicial sale.

PUBLIC OFFICERS—RESIGNATION OF OFFICERS—WITHDRAWAL OF RESIGNATION.—A county sheriff sent in to the proper authorities his prospective resignation, which was accepted by them. But before the date arrived on which the resignation was to take effect, the sheriff withdrew his proposition to resign and this, without the consent of the accepting authority. *Held,* such withdrawal of his resignation was good and effectual. *State ex rel. Ryan* v. *Murphy* (1908), — Nev. —, 97 Pac. 391.

There could be no questioning an officer's right to so withdraw his resignation providing it were done with the consent of the accepting authority. But where, as here, such consent is withheld, that right is doubtful, if it exists at all. *Biddle* v. *Willard,* 10 Ind. 62; *State* v. *Boecker,* 56 Mo. 17; *Rogers* v. *Slonaker,* 32 Kan. 191. It must be predicated as was done in the principal case upon the proposition that a resignation of a public office is complete without acceptance and acceptance does not affect it one way or the other. Upon this point there is great contrariety of opinion. But the weight of authority and of reason is probably with the view that a resignation is not complete until it is accepted by the proper authority. *Edwards* v. *U. S.,* 103 U. S. 471; *Rex.* v. *Bower,* 4 T. R. 778; *Rex.* v. *Jones,* 2 Stra. 1146; *Van Orsdall* v. *Hazard,* 3 Hill, 243; *State* v. *Ferguson,* 31 N. J. L. 107; *State* v. *Clay-*

ton, 27 Kan. 442; *Rogers* v. *Slonaker,* supra; *Hoke* v. *Henderson,* 4 Dev. (N. C.) 1; *State ex rel. Royse* v. *Kitsap County Superior Court,* 12 L. R. A. (N. S.) 1010. Many courts, however, support the contrary, and perhaps, more modern doctrine of the principal case as being more consistent with the fact that in our country no person, as a rule, is compelled to hold office. *United States* v. *Wright,* 1 McLean, 509; *People* v. *Porter,* 6 Cal. 26; *State* v. *Clark,* 3 Nev. 519; *State* v. *Mayor,* 4 Nebr. 260; *State* v. *Fiske,* 49 Ala. 402; *Bunting* v. *Willits,* 27 Gratt. 144; *Olmstead* v. *Dennis,* 77 N. Y. 378; *United States* v. *Justices,* 10 Fed. Rep. 460; *State* v. *House,* 43 Ind. 105; *Gilbert* v. *Luce,* 11 Barb. (N. Y.) 91; *Leech* v. *State,* 78 Ind. 570; *People* v. *Barnett,* 100 Ill. 332; *Rex.* v. *Mayor of Rippan,* 1 Lord Raym, 563; *City of Waycross* v. *Youmans,* 85 Ga. 708; See 6 MICH. LAW REV. 92.

REMOVAL OF CAUSES—FILING PETITION AND BOND IN STATE COURT—EFFECT.—Action by plaintiff for fifteen hundred dollars, amended by plaintiff to four thousand dollars, damages for trespass by defendant upon plaintiff's land. On petition by defendant for removal to the Federal Court, *held,* that, on filing a petition and bond in a state court for removal to a federal court, the jurisdiction of the state court ceases eo instante and it is the duty of the state court to proceed no further. *McCulloch et al.* v. *Southern Ry. Co. et al.* (1908), — N. C. —, 62 S. E. 1096.

The case was before this court at the fall term, 1907, 146 N. C. 316, 59 S. E. 882, on plaintiff's original complaint asking for fifteen hundred dollars damages, and being dismissed then plaintiff amended his complaint pursuant to the opinion and asked for four thousand dollars damages, which is above the statutory amount required for removal. The rule is that until some further judicial proceedings have taken place, showing upon the record that the sum demanded is not the matter in dispute, that sum is the matter in dispute in an action for damages. *Green* v. *Liter,* 8 Cranch 229; *Gordon* v. *Ogden,* 3 Pet. 33. After stating that defendant must file his petition for removal and therewith a bond, FOSTER'S FEDERAL PRACTICE, § 385, says, "it is then the duty of the state court to accept the petition and bond, if correct in form, and to proceed no further in the suit." To the same effect are *St. Paul & Chicago Railway Co.* v. *McLean,* 108 U. S. 212; *Kanouse* v. *Martin,* 15 How. 198, 14 L. Ed. 660; *Railroad* v. *Dunn,* 122 U. S. 513, 7 Sup. Ct. 1262, 30 L. Ed. 1159; *Marshall* v. *Holmes,* 141 U. S. 589, 12 Sup. Ct. 62, 35 L. Ed. 870. The mere filing of a petition for the removal of a suit, which is not removable, does not work a transfer. But a good removable case ceases eo instante in the state court on the filing of the petition and bond. *Stone* v. *S. Car.,* 117 U. S. 430, 6 Sup. Ct. 799, 29 L. Ed. 962. CLARK, C.J., dissented on the ground that the amended complaint did not state a cause of action against the defendant and therefore plaintiff was remitted to his original complaint asking for fifteen hundred dollars damages, which is below the statutory amount required for removal.

SALES—CONTRACTS—BREACHES—RIGHT OF ACTION—WAIVER.—Defendant contracted to furnish plaintiff 400 tons of ice, shipments to be delivered between certain dates as demanded by plaintiff. After weekly deliveries for